

**REMARKS**

Reconsideration and allowance of the subject application are respectfully requested.

Upon entry of this Amendment, claims 1-9 are pending in the application. Applicant respectfully submits that the pending claims define patentable subject matter. By this Amendment, Applicant has amended the claims to improve clarity.

Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. § 102(b) as being anticipated by Cimini, Jr. et al. (U.S. Patent No. 6,005,876; hereinafter “Cimini”). Claims 3, 6, and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cimini in view of Kornfeld et al. (U.S. Patent No. 5,722,053; hereinafter “Kornfeld”). Claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cimini in view of Patel et al. (U.S. Patent No. 6,865,185; hereinafter “Patel”). Applicant respectfully traverses the prior art rejections.

Applicant respectfully submits that Cimini does not teach or suggest an apparatus comprising the claimed first and second sending channels or first and second groups of sending channels. In particular, Applicant respectfully submits that Cimini does not teach or suggest:

the first sending channel or the first group of sending channels uses a first set of adjacent carrier frequencies, the second sending channel or the second group of sending channels uses a second set of adjacent carrier frequencies, each of the first and second sets of adjacent carrier frequencies includes at least one common carrier frequency for sending in spatial diversity mode, the first set of the adjacent carrier frequencies further includes at least one different carrier frequency for sending without spatial diversity or with a lower degree of spatial diversity, and the different carrier frequency is not included in the second set of adjacent carrier frequencies.

Cimini relates, generally, to a method and apparatus for facilitating mobile data communication, such as high speed data, through an arrangement for assigning carrier tones to a plurality of antennas and coding techniques. Cimini addresses the problem of reduced received signal power in mobile data systems by providing a base station that utilizes transmit antenna diversity and coding across frequencies.

Column 5, lines 10-27 of Cimini, which the Examiner cites for allegedly disclosing channels comprising frequencies for sending in spatial diversity mode and frequencies for sending without spatial diversity or a lower degree of spatial diversity, merely disclose that tone assignments may be varied to avoid the impact of adverse characteristics of paths associated with transmit antennas on carrier tones or tone clusters. The cited reference, as an example, suggests using a switch to alternately assign tones to antennas. (see column 5, lines 24-27, FIG. 3). Applicant respectfully submits, therefore, it is quite clear that the cited reference does not teach or suggest first and second sending channels or first and second groups of sending channels which use the claimed sets of adjacent carrier frequencies.

Further, Applicant respectfully submits that Kornfeld and Patel do not teach or suggest the features of claim which are missing from Cimini.


Accordingly, Applicant respectfully submits that independent claim 1 would not have been anticipated by or rendered obvious in view of the cited references. Further, Applicant respectfully submits that dependent claims 2 through 9 should also be allowable in view of their dependency on independent claim 1.

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Application No. 10/501,095

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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